

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Suzanne B. Conlon	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	13 C 0646	DATE	2-1-2013
CASE TITLE	United States of America ex rel. Lyndon B. Smith (N82615) vs. Randy Grounds, Warden, Robinson Correctional Center		

DOCKET ENTRY TEXT

The motion for leave to proceed *in forma pauperis* [3] is granted. The five dollar filing fee is waived. Respondent shall answer or otherwise respond to the habeas corpus petition [1] within twenty-eight days of the entry of the order.

Suzanne B. Conlon

■ [For further details see text below.]

Docketing to mail notices.

STATEMENT

Pro se petitioner Lyndon B. Smith, a Robinson Correctional Center inmate, brings a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner is serving a fifteen year sentence for a 2008 burglary conviction in the Circuit Court of Cook County. *Illinois v. Smith*, No. 07 CR 20943 (Circuit Court of Cook County). Petitioner states that he has completed his state court proceedings. Pending before the Court are petitioner's motion for leave to proceed *in forma pauperis* [3], and initial review of the habeas corpus petition [1] under Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts.

The motion for leave to proceed *in forma pauperis* [3] is granted because petitioner is impoverished. The five dollar filing fee is waived.

Turning to the habeas corpus petition [1], Rule 4 requires this Court to examine the petition and supporting exhibits and dismiss a petition if it "plainly appears" that petitioner is not entitled to relief. If the petition is not dismissed, then the Court orders respondent to answer or otherwise respond to the petition.

Petitioner alleges that his federal constitutional rights were violated by the failure to bring a timely indictment. *See United States v. Lovasco*, 431 U.S. 783, 789-90 (1977); *Aleman v. Honorable Judges of Circuit Court of Cook County*, 138 F.3d 302, 309-10 (7th Cir. 1998). Petitioner raises a cognizable federal constitutional challenge to his conviction. This claim cannot be resolved at a Rule 4 review, respondent must answer or otherwise respond to the habeas corpus petition.

STATEMENT

Petitioner is reminded to file all future papers concerning this action with the Clerk of Court in care of the Prisoner Correspondent. Petitioner must provide the Court with the original plus a Judge's copy (including a complete copy of any exhibits) of every document filed. In addition, petitioner must send an exact copy of any court filing to the Chief, Criminal Appeals Division, Office of the Illinois Attorney General, 100 West Randolph Street, 12th Floor, Chicago, Illinois 60601. Every document filed by petitioner must include a certificate of service stating to whom exact copies were sent and the date of mailing. Any paper that is sent directly to the Judge or that otherwise fails to comply with these instructions may be disregarded by the Court or returned to petitioner.

Suzanne B. Conlon